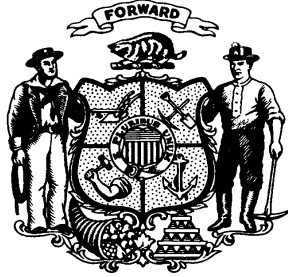


State of Wisconsin
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Terry C. Anderson

Director

Laura D. Rose

Deputy Director

TO: MEMBERS OF THE JOINT LEGISLATIVE COUNCIL
FROM: Terry C. Anderson, Director
RE: Reintroduction of 2001 Navigable Waters Recodification
DATE: March 30, 2005

The Special Committee on Navigable Waters Recodification's recommendations were originally introduced in the 2001 Session and then reintroduced in the 2003 Session. In the last session, the bill died in the committee of the house of introduction.

2003 Assembly Bill 514, Relating to Recodification of Ch. 30, Stats.

Navigable Waters Regulation

The bill:

- Reorganizes all of the statutes that provide for permits or approvals under subch. II of ch. 30, and modifies them so that these statutes, where appropriate, are in a consistent format, use consistent terminology and have consistent decision-making standards.
- Requires the Department of Natural Resources (DNR) to develop and make publicly available maps and data that show the results of its determinations of navigability.
- Directs the DNR to develop rules that describe the methods it uses for making determinations of navigability and that describe the public interest and public rights and the rights of riparian owners for purposes of decisions to approve or deny permits and approvals affecting navigable waters.
- Codifies the supreme court cases that set forth the kinds of evidence that can be used to determine if a lake or stream is navigable.
- Modifies provisions regarding farm drainage ditches to provide an exemption from regulation, rather than an exemption from the definition of "navigable," and clarifies the exemption so that it applies only to projects for an agricultural purpose.

- Modifies the current notice and hearing process by allowing the DNR to issue a denial directly after receiving a complete permit or contract application.
- Requires a person who wishes to challenge a permit or contract in a contested case hearing to make a more detailed showing of the facts and legal standards that support the objection and requires DNR to find that those facts raise a reasonable doubt that the project, as proposed, complies with the applicable standards in subch. II.
- Authorizes voluntary mediation between the applicant, persons with an interest in a permit or contract, and the DNR.

State Boating Regulation

The bill:

- Eliminates the authority of DNR to change statutory regulations by administrative rule in order to conform to federal regulations and requires DNR to submit legislation to conform statutes to federal regulations.
- Updates federal cross-references that are incorrect and adds federal cross-references where current statutes have a nonspecific reference to federal law.
- Consolidates and makes consistent the provisions regarding equipment and operation of patrol boats.
- Updates descriptions of activities that involve being towed behind a boat.
- Creates a statutory exemption from the requirement to carry a personal flotation device for racing shells, sculls, kayaks and canoes, to duplicate the current exemption in federal law.
- Permits operation of a boat within 100 feet from a skin diver's flag or swimmer if there is not sufficient room beyond 100 feet from the flag to maneuver, but boat operation may not exceed slow-no-wake speed.

Local Boating Regulation

The bill:

- Authorizes a town, village or city to enact boating ordinances of clearly local concern, even if another local governmental unit (county, lake district or town sanitary district) has adopted an ordinance applicable to the same lake or stream.
- Expands county authority so that a county may enact boating ordinances for an inland lake if authorized to do so by the towns, villages or cities surrounding the lake or if those towns, villages or cities do not enact a boating ordinance.
- Lists state boating regulations that require strict conformity in local ordinances and sets standards for other local ordinances which are required by statute to be consistent with state regulations.
- Authorizes a sheriff or a town, village or city to issue emergency regulations applicable to boating.

TCA:wu

**Copies of the bill are available upon request.*